

# Order

**Michigan Supreme Court  
Lansing, Michigan**

January 22, 2008

Clifford W. Taylor,  
Chief Justice

135150  
135151

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

LINDA JEAN CLEMENS, Personal  
Representative of the Estate of  
Therel B. Kuzma, Deceased,  
Plaintiff-Appellee,

v

SC: 135150  
COA: 264688  
Calhoun CC: 03-001783-NH

JOHN D. KOZIARSKI, M.D.,  
F.A.C.S., FAMILY SURGICAL  
SERVICES, P.C., FAMILY  
SURGICAL CARE, P.C., and  
XYZ UNKNOWN CORPORATION,  
Defendants-Appellees.

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CAROL A. MacKENZIE, Personal  
Representative of the Estate of  
Therel B. Kuzma, Deceased,  
Plaintiff-Appellant,

v

SC: 135151  
COA: 265619  
Calhoun CC: 05-001212-NH

JOHN D. KOZIARSKI, M.D.,  
F.A.C.S., and FAMILY SURGICAL  
SERVICES, P.C.,  
Defendants-Appellees,

and

FAMILY SURGICAL CARE, P.C.,  
and XYZ UNKNOWN CORPORATION,  
Defendants.

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On order of the Court, the application for leave to appeal the September 18, 2007 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals in part because plaintiff Linda Jean Clemens falls within the class of plaintiffs entitled to relief identified in our order in *Mullins v St Joseph Mercy Hospital* (Docket No. 131879), \_\_\_ Mich \_\_\_ (decided 11/28/07). We REMAND this case to the Calhoun Circuit Court for entry of an order denying the defendants' motion for summary disposition in case no. 03-001783-NH and for further proceedings not inconsistent with this order and the order in *Mullins*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



10114

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 22, 2008

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk